(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 8169 OF 2001.

PETITIONER : Smt. Karmila Bai, D/o Simanbiro, Caste Uraon, W/o Ishwar, aged about 45 R/o Village Dhhengurjor, (Bataikela), Tehsil Bagicha, District Jashpur, (C.G.).

V E R S U S

RESPONDENTS :

1. Smt. Fousi, widow of Rongo, aged about 80 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur, (C.G.).
2. Dhana, S/o Rongo, aged about 60 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur, (C.G.).
3. Sadhu S/o Rongo, aged about 55 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur, (C.G.).
4. Thurru, S/o Rongo, aged about 35 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur, (C.G.).
5. Tiharoo, S/o Rongo, aged about 30 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur, (C.G.).

P. R. No. 2144/2001
Presented by Shri Mahesh Pandey
dated 21.12.2001

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6. Bhagat, S/o Rongo, aged about 28 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur, (C.G.).

7. Mainu, S/o Rongo, aged about 45 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur,(C.G.).

8. Sunga, S/o Rongo, aged about 40 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur,(C.G.).

9. Thuni, S/o Rongo, aged about 38 years, Caste Uraon, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur,(C.G.).

10. Balbhadra, S/o Ama @ Mohar Sai, aged about 25 years, Caste Manjhi, R/o Village Baiginjhariya, Tehsil Lailunga, District Raigarh,(C.G.).

11. Vidyadhar Behra, S/o Raghuram, aged about Caste Mahkul, R/o Village Pakergoan, Tehsil Pathalgoan District Jashpur,(C.G.).

12. The Additional Collector, District Jashpur,(C.G.).

13. The Sub Divisional Officer, Pathalgoan, District Jashpur, (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS/CERTIORARI ETC. OR DIRECTION/ORDER IN THE LIKE NATURE ETC.

contd...3

XI-HC-22

(56)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2169/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

19.3.2004

Shri Prateek Sharma, counsel for the petitioner.

Shri Anand Kumar Tiwari, Panel Lawyer for respondents 12 & 13.

Heard both the counsel.

The petitioner has preferred this writ petition against the order dated 20th September 2001 passed by respondent No.12, the Additional Collector, District Jashpur, whereby the learned Additional Collector allowed the appeal of respondents 1 to 9, and set aside the order of the Sub Divisional Officer, Pathalgaon, passed in revenue case No.63-A-23/96-97, decided on 12.6.2000 in which the learned S.D.O. rejected the application of respondents 1 to 9 filed under Section 170-B of the M.P. Land Revenue Code, 1959, saying that the provisions are not attractive.

The Additional Collector while allowing the appeal held that the mutation dated 23.4.1997 is declared as ineffective, void and invalid and the revenue land bearing Khasra Nos. 382/1, 396/1 and 399/1, total area 1.288 hectares be recorded in the name of respondents 1 to 9. Against the above order of the Additional Collector, the petitioner was entitled to file revision before the Commissioner at the relevant time, now before the Board of Revenue, as the post of Commissioner has been abolished. The Commissioner and the Revenue Board under Section 50 are entitled to exercise the power as of a revenue Court, and they are entitled to satisfy themselves as to the legality and propriety of the order impugned and also regulate all the proceedings of any Revenue

(57)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP. 2169/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित (2)	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Officer. In view of the clear-cut provision, there was an alternative remedy available to the petitioner herein. Instead of filing this writ petition, the petitioner ought to have filed a revision under section 50 of the Chhattisgarh Land Revenue Code, 1959. Therefore, the petition is liable to be dismissed and accordingly it is dismissed.

The learned counsel for the petitioner submits that question of limitation will arise therefore, an order be passed that this period be excluded from the period of limitation.

It is not appropriate for this Court to pass any order on this request. It is for the revenue Court to decide whether in the circumstances, the petitioner is entitled for the benefit of limitation for the period for which he has litigated before this court.

Sdl-
L.C.BHADOO
Judge

Soma/Sunita

[पीछे देखिये